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695 E Maplewood Loop
Oak Harbor, WA 98277

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MAR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Dennis Lee Nelson	:	
Application No. 10/057,077	:	ON PETITION
Filed: January 23, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 28 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks items (1) and (2).

A final Office action was mailed to applicant on October 28, 2003, which set a three (3) month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on January 29, 2004.

Petitioner alleges that he has not received any notifications since October 28, 2003. It is reasonable to assume that petitioner did receive the Office action dated October 28, 2003, but a copy is attached, nevertheless, for petitioner's use.

To revive the application, petitioner must provide a reply to the outstanding Office action. Petitioner may submit one of the following as a reply: (1) an amendment that places the application in condition for allowance; (2) a Notice of Appeal and requisite fee; a Request for Continued Examination (RCE) accompanied by the submission required by 37 CFR 1.114 and the requisite fee, or; (4) a continuing application.

Additionally, petitioner has not provided the petition fee. The current fee for an unintentional petition is \$750.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Petitioner has made a statement pertaining to the unintentional delay in the instant petition, but it isn't a proper statement in compliance with 37 CFR 1.137(b). In view thereof, a blank petition form is enclosed herewith for petitioner's use.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (703) 872-9306.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223

A handwritten signature in cursive script, appearing to read "Marianne E. Jenkins".

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachments: Copy of Final Office Action mailed October 28, 2003
Blank Unintentional Petition Form